



**Porter County Board of Zoning Appeals  
Regular Meeting Minutes  
January 20, 2021**

The regular meeting of the Porter County Board of Zoning Appeals was held at 5:30 p.m. on Wednesday, January 20, 2021, in the Porter County Administrative Center, 155 Indiana Avenue, Suite 205, Valparaiso, Indiana. Debbie Cook presided.

Members present were: Marvin Brickner, Brian Damitz, Luther Williams, Michael Young, and President Debbie Cook. Also present were Kristy Marasco, Monica Gee, Robert Thompson, Attorney Scott McClure, Helene Pierce, citizens, and representatives of the press.

**ELECTION OF OFFICERS:**

President: Marvin Brickner nominated Debbie Cook. Brian Damitz seconded the nomination. A voice vote was taken and unanimously carried 5-0.

Vice-President: Michael Young nominated Marvin Bricker. Luther Williams seconded the nomination. A voice vote was taken and unanimously carried 5-0.

**MINUTES:**

Tabled.

**CORRESPONDENCE:**

None.

**OLD BUSINESS:**

**UV-15-0016** – David Griffith, 901 North 264 West, Valparaiso, IN in Liberty Township in the RR, Rural Residential District. The petitioner is terminating the Use Variance permitting a private shooting preserve.

**Motion:** Marvin Brickner made a motion to deny UV-15-0016 to comply with terminating the variance. Luther Williams seconded the motion. A roll call vote was taken and unanimously carried 5-0.

**NEW BUSINESS:**

**UV-20-0078** – Paul Hernandez, 677 West 50 North, Valparaiso, IN in Union Township in the RR, Rural Residential District. The petitioner is seeking Use Variance to allow temporary housing in an existing structure for handicap brother. Mr. Hernandez was not present.

**Motion:** Marvin Brickner made a motion to continue UV-20-0078 to the next regularly scheduled Board of Zoning Appeals meeting – currently scheduled for February 17, 2021. Luther Williams seconded the motion. A voice vote was taken and unanimously carried.

**UV-20-0012** – (APPEAL) – Jeff Szarley, 122 West 900 South, Kouts, IN in Pleasant Township in the A1, General Agriculture District. The petitioner is seeking a Use Variance to allow a pole barn to be located in the front yard, the height to be 26 feet (with cupola) and the appearance to be red in color. Mr. Jeff Szarley presented. Mr. Szarley is a fourth-generation farmer in Kouts. An Administrative Subdivision was completed a year ago with the proposed barn in the front yard. The placement will benefit because of the topography of the land. Drainage calculations were done with barn placement in front of the house, and the placement makes it accessible to utilities, etc. Septic placement and easements and a grade drop off make it non-feasible to have the barn behind the pasture. No one will be negatively affected by the barn being in front of the house. The barn is 21 feet 5 inches to the peak. The color does not match the home; however, the home is white and there is an existing accessory structure that is red and white so it will match the property color scheme. The barn roof will match the accessory structure also. Variances are requested for the height, placement and color.

**Public Hearing:** Debbie Cook asked if any of the public would like to speak in favor of or in opposition of this petition. Debbie Cook also asked that the public address their questions to the BZA while at the same time the petitioner will take notes and respond at one time.

**Mr. Mike Birky**, 750 S Baums Bridge Road, Kouts stated he owns the property at 117 W 750 S and it adjoins the petitioner's property. This project makes sense and he is in favor of the request.

The public hearing was closed, and questions/comments were heard from the Members.

Q: Are there any other possible areas on the property that can be or were considered for placement? The Hearing Officer presented an alternate location, why not there?

A: The alternate was not feasible. There is nowhere else due to the topography of the land, access, easements and the septic system placement. To place the barn in the back yard would require the clearing of many trees. The topography drops off 6 to 8 feet and would have to be built up. A second road would have to be cut to access the back of the property.

Q: What is the barn going to be used for?

A: Service truck parking and raising small livestock.

Q: Did you consider enlarging the existing accessory building?

A: The building already sits on the 30-foot property line and it is our garage, not a barn.

Discussion continued. Upon further consideration, Mr. Szarley invited the Members to visit his property and view the clearly staked area.

**Motion:** Marvin Brickner made a motion to continue UV-20-0012 to the February regular meeting to allow Members a chance to visit the property. Luther Williams seconded the motion. A voice vote was taken and unanimously carried.

**DV-16-0036** – William Dykstra/Shawn Evans, 904 Grandview Avenue, Valparaiso, IN in Center Township in the RL, Residential Lake District. The petitioner is seeking a Developmental Standards Variance to allow a reduction in the minimum lot area required and a reduction in rear yard setback. Attorney Lee Lane presented. Mr. William Dykstra and Mr. Shawn Evans were also present. Attorney Scott McClure advised this case was heard by the Hearing Officer and now the petitioner is here on appeal. The Lake District has no minimum square footage for lot sizes. The platted lots in the immediate surrounding area range in size from 2,734 square feet to 8,800 square feet. Originally Mr. Dykstra owned four (4) lots that for an "L" shape and is substantially larger than the surrounding lots. Many of the surrounding houses are used for rental or vacation homes and are not owner-occupied.

Mr. Dykstra purchased his four lots in 1974. There are four lots and three residences. Lot 14 has a year-round resident. Lot 13 is a summer cottage rental. Lot 16 is a summer residence and winter rental. Lot 15 had nothing on it. A building permit for Lot 15 was appealed and the BZA determined it was a valid permit. The building permit for Lot 13 was revoked. The petitioner is proposing a lot split that has a house that straddles lot 1 and lot 2 has a storage building. The storage building on lot 2 is required to have an eight (8) foot setback. A minor error happened, and the setbacks are actually 7'8" at one point and 7'5" at another point. The County accepted this, and it has never been disputed since. The storage building is a legal accessory structure and is used for storage purposes only. There is no electric, water, heat, etc. It has never been used for or intended for residential purposes. This is a very unique request in that nothing on the property changes if the variance is granted tonight. As the structures exist, they are lawful. The lot split was recorded and the location of the existing frame building, accessory structure, etc. The reduction in lot size variance does not affect anything either. The two structures exist now and will remain two structures. The 8' side setback become a 10' rear setback. The residence has been in place for 25 years and the accessory building so this will not negatively affect the neighbors. Attorney Aaron Medley, representing Mr. Evans, stated Mr. Evans purchased a lot after an approved replat was done. Using the original storage building, Mr. Evans made improvements and the storage building is now a home. Mr. Evans hired professionals to perform all the work being performed and all necessary permits were received. He was in the process of refurbishing an eyesore property into a beautiful home when an appeal was made and stop order was presented. Plumbing and electric are incomplete at this time, but \$73,000 has already been invested. He is constructing the home to allow his parents to reside close to him.

Public Hearing: Debbie Cook asked if any of the public would like to speak in favor of or in opposition of this petition. Debbie Cook also asked that the public address their questions to the BZA while at the same time the petitioner will take notes and respond at one time.

Mr. John Hughes, 911 Grandview, shared a PowerPoint presentation sharing his concerns, concerns of the neighbors and noting he is opposed to this variance request.

Ms. Marilyn Williams, 903 Grandview, feels the petitioner should have to comply with the Ordinance requirements. She is opposed to this variance request.

Mr. Jim Webber, 5407 Grandview is opposed to this variance request.

Ms. Lynn Pendleton Webber, 5407 Grandview is opposed to this variance request.

Ms. Alison Murphy, 5203 Groseland, is opposed to this variance request.

Ms. Susan Branden, 5207 Groseland, is opposed to this variance request.

Mr. Russell Mangus, 5107 Groseland is opposed to this variance request.

Ms. Kara Simaga, 905 Woodland Terrace is opposed to this variance request.

Mr. Chris Hildebrand, 1005 Grandview, is opposed to this variance request.

Attorney Lee Lane stated Mr. Dykstra's building permits and Board of Zoning Appeals requests were granted and the lot size reduction was granted. These are not things that were not reviewed. There was no sale of the property or activity on the property until after the plat changes were recorded.

Attorney Aaron Medley advised Mr. Evans purchased the property as a platted lot and he was not made aware of any restrictions whereas a residence could not be built on the lot. He wants his parents to live at this location, so he is not going to create any issues for the neighbors.

The public hearing was closed, and questions/comments were heard from the Members.

- Very crowded street.
- No parking available.
- Drainage concerns.
- Denying the petition won't change anything, however, because the buildings are already there.
- The work being done and that has been done is an improvement to the area.
- Members would like an opportunity to discuss some of the concerns individually with Counsel before proceeding.

Motion: Marvin Brickner made a motion to continue DV-16-0036 to the February 17, 2021 meeting. Michael Young seconded the motion. A ballot vote was taken and unanimously carried.

Attorney McClure advised if a member would like to meet with him individually prior to the February 17, 2021 meeting they may do so, but only individually.

**STAFF ITEMS:**

None.

**ADJOURNMENT:**

There being no further business, the January 20, 2021 Board of Zoning Appeals meeting adjourned at 8:27 p.m.

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Debbie Kerr-Cook, President

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Attest: Kristy Marasco, Assistant Director